

EXHIBIT 7

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF MASSACHUSETTS

JUDITH THIBEAU,)
And GEORGE THIBEAU,)
Plaintiffs)
VS.) CIVIL ACTION
) NO. 04-10643 LTS
UNITED STATES OF AMERICA)
and EAST BOSTON NEIGHBORHOOD)
HEALTH CENTER CORPORATION,)
Defendants)

AFFIDAVIT OF TORY A. WEIGAND, ESQUIRE

I, Tory A. Weigand, do depose and swear as follows:

1. I am counsel for the defendant, East Boston Neighborhood Health Center Corporation (“EBNHC”) and a partner at Morrison Mahoney LLP.
2. The above-entitled action is a consolidated action in which the plaintiffs have asserted various professional negligence claims against the EBNHC with regard to the provision of eye care to the plaintiff, Mrs. Judith Thibeau, on or about September 26, 2002. The plaintiff has also alleged that the handrail on the stairway was allegedly defective contributing to Mrs. Thibeau’s fall.
3. The parties engaged in certain discovery primarily directed at the professional negligence claim and just recently exchanged expert reports. The plaintiffs just recently provided an expert report which for the first time set forth the basis for the alleged defect in the premises claim apart from the professional negligence claims.

4. As set forth in the deposition excerpts and the affidavit of James Taylor, M.D., the EBNHC is a non-profit charitable organization which provides healthcare services to the public primarily in the Chelsea, Revere, East Boston and Winthrop area since 1970.

5. Following the review of plaintiffs' expert report and the review of the defendant's own retained experts, which reports which were just recently provided to the plaintiffs, undersigned counsel contacted plaintiff's counsel by telephone on Friday, November 11, 2005, to advise him of the applicability of G.L. c. 231 §85K to the allegedly faulty handrail design claim, but which cap does not otherwise apply to the professional negligence claims. Undersigned counsel for EBNHC informed plaintiffs' counsel that the EBNHC would be filing a motion to amend its answer to add the statutory cap as an affirmative defense.

6. In my discussions with plaintiffs' counsel, I offered and agreed to provide plaintiffs with EBNHC's articles of incorporation and mission statement which I have since provided. I also offered to provide any other relevant documents in EBNHC's possession related to its charitable status that plaintiffs might wish to review. I likewise offered to allow plaintiffs to submit additional document requests and interrogatories as to the charitable status of EBNHC, with EBNHC providing responses within seven (7) days of the receipt of the request. I also offered to allow plaintiffs to take any additional depositions of EBNHC personnel desired by plaintiffs as to the charitable status at issue and believe that any such discovery can be completed in a matter of days.

7. Plaintiff's counsel informed the undersigned that he would review the motion upon receipt but that he would be opposing the requested amendment.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14TH DAY OF NOVEMBER, 2005.

/s/ Tory A. Weigand

Tory A. Weigand, BBO #548553
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I hereby certify that on November 14, 2005, a true copy of the above document was served upon each counsel of record electronically through filing with the ECF system.

/s/ Tory A. Weigand

Tory A. Weigand

EXHIBIT 8

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1 Volume I
2 Pages 1-98
3 UNITED STATES DISTRICT COURT
4 FOR THE EASTERN DISTRICT OF MASSACHUSETTS
5 C.A. #4-10643 MLW
6 JUDITH THIBEAU
7 and GEORGE THIBEAU,
8 Plaintiff
9 vs
10 UNITED STATES OF AMERICA
11 and EAST BOSTON NEIGHBORHOOD
12 HEALTH CENTER CORPORATION,
13 Defendant

14 DEPOSITION of JAMES O. TAYLOR, M.D.,
15 taken on behalf of the Plaintiff, pursuant
16 to the Federal Rules of Civil Procedure,
17 before Norma J. Black, CSR #108593, and
18 Notary Public in and for the Commonwealth
19 of Massachusetts, at the Law Offices of
20 Frederick & Associates, 1330 Beacon Street,
21 Brookline, Massachusetts 02446-3282,
22 commencing at 10:30 a.m., on Monday, March
23 21, 2005.
24 ALL-WRITE TRANSCRIPTION & REPORTING SERVICES
955 WASHINGTON STREET
NORWOOD
MASSACHUSETTS 02062
(781)769-3172

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2

APPEARANCES

3
4 JAMES L. FREDERICK, ESQUIRE
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Brookline, Massachusetts 02446-3282
Appearing for the Plaintiffs

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8 CHRISTOPHER ALBERTO, ESQUIRE
9 Assistant U.S. Attorney
10 United States Attorney for the
11 District of Massachusetts
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representing the Deponent,
James O. Taylor, M.D.

14
15 CHARLES M. URSO, ESQUIRE
16 Morrison Mahoney LLP
17 250 Summer Street
18 Boston, Massachusetts 02210
19 Appearing for the Defendant,
East Boston Neighborhood Health
Center Corporation

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STIPULATIONS

2
3
4 Counsel have stipulated that the
5 reading, signing and filing of the
6 deposition may be waived.

7
8 Counsel have further stipulated that
9 all objections, except those as to form,
10 and all motions to strike may be reserved
until the time of trial.

11
12 JAMES O. TAYLOR, M.D.,
13 being first duly sworn, was examined and
14 testified as follows:

DIRECT EXAMINATION

15
16 Q (BY MR. JAMES L. FREDERICK) Dr. Taylor, my
name is Jim Frederick and I represent
17 Judith Thibeaup and George Thibeaup in this
case. I will be asking you some questions
18 today. If you do not understand any of my
19 questions, please let me know and I will
20 try to rephrase the question.

21
22 Please give oral answers to
23
24

1 every question and not a nod of the head or
 2 a gesture.
 3 A All right.
 4 Q Also, please let me finish my question
 5 before you start to give your answer so we
 6 do not confuse the court reporter.
 7 If you need to take a break at
 8 any time, let me know and we can go off the
 9 record, as long as you have finished
 10 answering the pending question.
 11 A All right.
 12 Q Please state your full name.
 13 A James O. Taylor, T-a-y-i-o-r.
 14 Q What does the O stand for?
 15 A Oliver.
 16 Q What is your date of birth?
 17 A October 11, 1937.
 18 Q And what is your Social Security number?
 19 A 566-48-7050.
 20 Q Are you employed?
 21 A Yes, I am.
 22 Q Where are you employed?
 23 A East Boston Neighborhood Health Center.
 24 Q How long have you worked there?

1 In 1970, while still a research
 2 fellow, I went to East Boston to begin
 3 hypertension research and was recruited to
 4 help start a health center.
 5 Q So did you, in fact, help start the East
 6 Boston Neighborhood Health Center?
 7 A Yes.
 8 Q You were there at the beginning then?
 9 A Yes.
 10 Q Do you have a specialty, Doctor?
 11 A Internal medicine.
 12 Q Are you board certified?
 13 A I'm board eligible, not board certified.
 14 Q With regards to being the Chief Medical
 15 Officer, can you tell me what the duties of
 16 that job are?
 17 A I am really responsible for the medical
 18 care provided. I recruit and supervise the
 19 medical staff. We now have over a 140
 20 different physicians employed by the health
 21 center. The total health center staff is
 22 about 750 people.
 23 Q The total staff?
 24 A Yes. We see about 230,000 patient visits a

1 A For thirty-five years.
 2 Q What is your position at East Boston
 3 Neighborhood Health Center?
 4 A Chief Medical Officer.
 5 Q How long have you been the Chief Medical
 6 Officer there?
 7 A I guess my title was Medical Director
 8 starting in about 1971, and maybe ten years
 9 ago it was changed.
 10 Q Briefly, please tell me your educational
 11 background?
 12 A I did my undergraduate training at
 13 Occidental College in Los Angeles. I went
 14 to UCLA Medical School and graduated in
 15 1963. I then came to the Boston City
 16 Hospital where I was an intern and first
 17 year resident in 1963 through 1965.
 18 I joined the United States
 19 Public Health Service and was stationed in
 20 Duki, East Pakistan, which is now
 21 Bangladesh, for three years and returned to
 22 Boston City Hospital and did a senior
 23 residency and fellowship in infectious
 24 diseases in 1968 and 1969.

1 year. So I supervise the departmental
 2 medical directors; recruit physicians,
 3 responsible for quality assurance,
 4 performance improvement, and meet all of
 5 the legal and regulatory requirements of
 6 providing healthcare as a neighborhood
 7 health center and group medical practice.
 8 Q Where is the East Boston Neighborhood
 9 Health Center located?
 10 A 16 Gove Street, it's above the exit to the
 11 Callahan Tunnel on the East Boston side.
 12 Q Is that the main office at 16 Gove Street?
 13 A Yes.
 14 Q Are there other offices, say, within East
 15 Boston?
 16 A There are actually four buildings on the
 17 four corners of Gove and Paris Street. We
 18 also have three assisted living
 19 facilities and two adult day healthcare
 20 centers which are part of a community based
 21 long-term care program for frail elderly.
 22 Q Is that it?
 23 A Yes.
 24 Q So an assisted living facility of three

1 buildings and two buildings for the
 2 adult day healthcare?
 3 A One building actually has both adult day
 4 healthcare and assisted living in the same
 5 building. One -- actually two buildings
 6 have a combination of housing and
 7 healthcare. One is just housing.

8 Q Where are those assisted living facilities
 9 and the adult day healthcare located?

10 A One is immediately next door to the main
 11 building on Gove Street; that's the Lyman
 12 School. Another one is in Maverick Square;
 13 that's the Lewis Mall. That also has about
 14 forty units of assisted living.

15 There is another assisted
 16 living unit without an adult day health
 17 center at the Shevritz School, and then
 18 there is an adult day health center with
 19 single-room occupancy units for cognitively
 20 impaired elders in Winthrop called Winthrop
 21 Place.

22 Q Who pays you your salary?

23 A The East Boston Neighborhood Health Center
 24 is a 501C3 independent corporation. We

1 maintained status as a 501C3 corporation.
 2 I think at that time that's when the
 3 paycheck switched.

4 Q Does the East Boston Neighborhood Health
 5 Center still have a connection with Boston
 6 City Hospital?

7 A Yes, we are still on the license of its
 8 successor organization, which is Boston
 9 Medical Center, formed by the merger of
 10 Boston City Hospital.

11 Q When you say on the license of, what does
 12 that mean?

13 A That means in terms of external regulators
 14 and certain payers, we are considered to be
 15 a clinic of the Boston Medical Center. So
 16 JCAHO, the Joint Commission on
 17 Accreditation of Healthcare Organizations,
 18 views us as if we were part of Boston
 19 Medical Center.

20 There are three other health
 21 centers that have that status -- actually
 22 four. But for purposes of payroll and
 23 personnel and legal entity, we are
 24 separate.

1 have a Board of Directors made up of
 2 community residents and users of the health
 3 center, predominantly.

4 Q So your paychecks come from East Boston
 5 Neighborhood Health Center?

6 A Yes.

7 Q Is it the East Boston Neighborhood Health
 8 Center Corporation?

9 A I think it's Inc.

10 Q How long have you been paid like that?

11 A Perhaps since 1978. It used to be through
 12 an organization called Trustees of Health &
 13 Hospitals, Incorporated, and I actually got
 14 my paycheck through the Trustees of Health
 15 & Hospitals, Incorporated.

16 Then in 1978 the state
 17 basically decided that a more appropriate
 18 arrangement would be that the health center
 19 should either become part of what was then
 20 Boston City Hospital or an independent
 21 free-standing health center.

22 The health center chose to
 23 become, from a licensure point of view,
 24 part of Boston City Hospital and also

1 Q You say the accreditation, people come to
 2 visit you as a clinic of the Boston Medical
 3 Center?

4 A That's correct.

5 Q The accreditation, what is that?

6 A JCAHO, Joint Commission on Accreditation of
 7 Healthcare Organizations.

8 Q Where are they from, if you know?

9 A Chicago, I think.

10 Q How often do they come?

11 A Every three years on a regular basis. They
 12 may come at other times unannounced.

13 Q When was the last such visit?

14 A Just about a year ago.

15 Q Does this commission visit all of the
 16 facilities of the East Boston Neighborhood
 17 Health Center?

18 A Yes.

19 Q And what do they do when they come here to
 20 visit?

21 MR. URSO: Objection. That is
 22 peer review.

23 (Discussion off the record)

24 MR. FREDERICK: Defense counsel

1 and I have had a discussion about peer
 2 review as regards the records of JCAHO, the
 3 Joint Commission on Accreditation of
 4 Healthcare Organizations, and there may be
 5 a statutory privilege against my inquiring
 6 about that information.

7 What I would like to do is
 8 suspend such portion of the deposition as
 9 regards any information that might be asked
 10 for gleaned from any inspections of JCAHO,
 11 until such time as I have had a chance to
 12 review the law on that. If I feel it's
 13 necessary to bring a motion and seek a
 14 court order to get those records and to
 15 bring the Doctor back in, we can reconvene
 16 on that subject at that time.

17 MR. URSO: All right

18 MR. ALBERTO: That's fine.

19 Q Doctor, one of the addresses of the
 20 buildings which the health center operates
 21 out of is on Paris Street?

22 A 79 Paris Street, it's the George Robert
 23 White Fund Building or health unit
 24 building, which was the site of the

1 A Yes.

2 Q Do you have information or knowledge as to
 3 what that is?

4 A That actually is a trust that was set up by
 5 this philanthropist which consists of the
 6 Mayor of the city of Boston, corporation
 7 counsel of the city of Boston, president of
 8 the city counsel, president of the Bar
 9 Association, and one other distinguished
 10 person whom I can't remember.

11 Basically, there's an office in
 12 city hall that there were originally thirty
 13 such health units started around the city.
 14 The White Building at Mass. General is also
 15 I believe under that fund.

16 The fund has resources which
 17 they actually reinvest into their
 18 properties from time to time. We basically
 19 lease it from the fund for a dollar a year.

20 Q You said a moment ago the fund has
 21 resources which it reinvests in buildings
 22 from time to time; is that right?

23 A Yes, on application or into other projects
 24 for the betterment of the city as specified

1 original health center before the 18 Gove
 2 Street site was built.

3 It's a building that was
 4 constructed I think in 1926, according to
 5 the plaque, and is still owned by the
 6 George Robert White Fund Trust.

7 Q Is there another building on Paris Street
 8 that the center operates out of?

9 A Not with an address on Paris Street, no.

10 Q How many buildings on Gove Street does it
 11 operate under?

12 A The Lyman School facility is next door to
 13 the 18 Gove Street main facility. They
 14 both have addresses on Gove Street.

15 Q Going back to the 79 Paris Street building,
 16 was the neighborhood health center formed
 17 at that original office?

18 A Yes, that building functioned as a public
 19 health clinic operated by the city of
 20 Boston since originally owned in 1926.

21 Q 1926?

22 A 1926, yes.

23 Q And you said it's owned by the George
 24 Robert White Fund Trust?

1 A In the will.

2 Q And has the fund from time to time devoted
 3 some resources to the building at 79 Paris
 4 Street?

5 A Yes, it has.

6 Q And what sorts of things has the fund
 7 applied its resources to at 79 Paris
 8 Street?

9 A Windows, roofing -- it's never touched the
 10 stairway.

11 Q What other sorts of things besides windows
 12 and roofing?

13 A There's an ejector pit in the basement that
 14 has to do with water and sewerage. It's
 15 basically facilities, maybe possibly the
 16 heating. I'm not sure. There is no
 17 air-conditioning.

18 Q You said that money is applied or used upon
 19 application?

20 A Yes.

21 Q Is it upon application of the East Boston
 22 Neighborhood Health Center?

23 A Yes.

24 Q When the health center sees a need to fix

1 part of the facility, it applies to the
 2 fund?
 3 A That would be one way to do it. Another
 4 way of doing it is just to do it out of
 5 operating funds, if that were not
 6 available.
 7 Q So it's either or?
 8 A Yes.
 9 Q In other words, if the health center needs
 10 some money to fix a certain part of its
 11 facility at 79 Paris Street, it either
 12 applies to the fund or goes to its own
 13 budget?
 14 A Usually goes to its own budget. It would
 15 go to the fund for a larger project.
 16 Q In your capacity as Chief Medical Officer,
 17 are you familiar with the budget for the
 18 East Boston Neighborhood Health Center?
 19 A In general terms, yes.
 20 Q How are you familiar with the budget? Do
 21 you have any input in the budget?
 22 A Yes, I am basically the Chief Executive
 23 Officer and I sort of coexist in something
 24 known as office of the president. We work

1 proposal.
 2 Q What are some of the capital improvements
 3 that the East Boston Neighborhood Health
 4 Center has made part of its budget for 79
 5 Paris Street, say in the last ten years?
 6 A I'm not sure. Within the past twenty
 7 years, we have moved walls. I mean, we
 8 have redesigned exam rooms. Over the
 9 history of the building, different rooms
 10 have been used for a wide variety of
 11 different functions: some office space,
 12 some patient care space, that sort of
 13 thing.
 14 Q From time to time say in your tenure there?
 15 A At one point the roof needed serious work
 16 in terms of preventing water leakage, that
 17 sort of thing.
 18 Q I take it that was done?
 19 A Yes.
 20 Q And that was an item in the budget which
 21 was approved?
 22 A Yes.
 23 Q Then there have been some physical changes
 24 to offices inside of the building?

1 Jointly with the Chief Financial Officer
 2 and other leaders within the health center
 3 in developing the budget and present that
 4 budget to the Board of Directors for their
 5 approval on an annual basis.
 6 So I have input into it. My
 7 background is not a financial background.
 8 Q But on a yearly basis you help put together
 9 a proposed budget which is proposed to the
 10 Board of Directors?
 11 A That's correct.
 12 Q And as part of that budget, there are items
 13 for capital improvements?
 14 A Yes.
 15 Q And in this budget you present to the Board
 16 of Directors, is that separate from any
 17 applications you make to the fund --
 18 A Yes.
 19 Q -- for monies?
 20 A Yes. I would say that we have gone to the
 21 fund maybe three or four times in the
 22 thirty years I have been there for very
 23 specific projects. That's unusual. It's
 24 not always accepted when we make a

1 A Right.
 2 Q And walls have been put up and taken down?
 3 A Some, yes. It's a pretty substantial
 4 building. It's not easy to move walls in
 5 the building. It's sort of subpartitions,
 6 that the basic walls in the building are
 7 not moveable.
 8 Q When was the last major renovation in the
 9 building?
 10 A I would guess fifteen years. But honestly,
 11 my chronologies clock is not reliable going
 12 backward.
 13 Q Do you have any idea when the elevator was
 14 installed in the building?
 15 A I think it was installed initially with the
 16 building. It's an Otis elevator.
 17 At some point maybe twenty
 18 years ago the cab was enclosed.
 19 Originally, it was sort of like many of the
 20 older building elevators; the cab was sort
 21 of one of those folding sliding metal doors
 22 and you could sort of see around you as you
 23 went up and down. Again, I would guess
 24 twenty years ago or so it was enclosed with

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1 electric doors.
 2 Q When that work was done, were you the Chief
 3 Medical Officer or the Medical Director?
 4 A One of the two.
 5 Q You are now Chief Medical Officer and
 6 before you were Medical Director?
 7 A It really didn't change.
 8 Q Say the elevator work had been done twenty
 9 years ago, was that a budgeted item, to
 10 your best memory?
 11 A I suspect it was done at the same time that
 12 a heavy concrete access ramp was put up
 13 outside of the building. So my guess is
 14 that was a paid for renovation. That is my
 15 guess, but I'm just guessing. It could be
 16 twenty, could be twenty-five. Time blurs
 17 going backwards.
 18 Q The building at 79 Paris Street, what is
 19 housed there today?
 20 A The first floor has what we call enrollment
 21 offices there. It's basically a staff of
 22 probably twelve or fifteen bilingual
 23 enrollment representatives for patients who
 24 do not have insurance. And they basically

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22

1 sit with them to help them fill out
 2 applications and apply for things that
 3 might give them healthcare coverage, such
 4 as Mass. Health and the Free Healthcare
 5 Pool and Healthy Start and the Chip Program
 6 for children. So that is the front half of
 7 that building.

8 The back half is a program
 9 known as Project CHIME, which is a
 10 Multi-Disciplinary Program for patients
 11 with HIV and AIDS. That's the first
 12 floor.

13 The second floor is half or
 14 maybe half a dental clinic and the other
 15 half is the vision center or eye clinic.

16 The third floor houses the
 17 medical staff office that handles all of
 18 the credentialing and has the Grants
 19 Administrator. There's a small office for
 20 a program called the Catch Program, which
 21 is a multi-disciplinary program for
 22 disabled infants and children. It's a home
 23 base for a home care team of physicians and
 24 practitioners and a social service person.

PAGE 23

23

1 And in the basement there's
 2 some storage. I think there may be some
 3 facilities, workshop. I think that's it.
 4 Q So it's three floors above ground?
 5 A Three above ground, yes.
 6 Q And the third floor, do any patients go up
 7 to the third floor?
 8 A Not as part of routine medical care, no.
 9 Q So in that building, the routine medical
 10 care is only given on the second floor?
 11 A Second and first, yes.
 12 Q And with the dental clinic on the second
 13 floor, how do you enter the dental clinic?
 14 A By the stairs or elevator -- share a common
 15 door on the second floor after the landing.
 16 Q Was this the setup in 2002?
 17 A Yes.
 18 Q How long has the eye clinic been on the
 19 second floor there?
 20 A Guessing again, I would say twenty years or
 21 more. I'm not sure.
 22 Q Is the money to operate the eye clinic
 23 separately budgeted?
 24 A No.

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24

1 Q How many staff work at the eye clinic?
 2 A I may be off, but I think there are
 3 probably three or four sort of secretarial
 4 level people. There are four
 5 optometrists. At any point in time there
 6 may be five students from the New England
 7 College of Optometry. And then we have
 8 ophthalmologists who come in usually on a
 9 once a week basis for medical and surgical
 10 eye disease.
 11 Q The optometrists are not MDs; is that
 12 correct?
 13 A That's correct.
 14 Q But the ophthalmologists are?
 15 A The ophthalmologists are MDs. The
 16 optometrists are DOs, doctor of optometry.
 17 Q Such as people who graduated from the New
 18 England College of Optometry?
 19 A Yes.
 20 Q How long have you been using students from
 21 the New England College of Optometry?
 22 A I would say since the late seventies, might
 23 be as late as 1980, between 1978 and 1980.
 24 We moved into the 18 Gove

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1 And there's a retina
 2 specialist, Dr. Lu. I can't remember his
 3 first name.
 4 Q He is a retina specialist?
 5 A Yes. He maybe comes in once a month but
 6 not as often as Dr. Abelson.
 7 Q Any other ophthalmologists that come in?
 8 A No.
 9 Q Were these same ophthalmologists coming in
 10 -- do you want to change something?
 11 A Yes. Actually, I think there certainly
 12 were not at the time we are talking about,
 13 but I think there is now another
 14 ophthalmologist who comes in from Boston
 15 Medical Center. Her name is Susan Rose, I
 16 believe.
 17 MR. ALBERTO: Dr. Taylor is not
 18 certain that this is accurate information.
 19 He is trying to the best of his ability.
 20 Q I understand you're giving your best memory
 21 of what you know.
 22 A In the old days, I knew all the employees'
 23 names. But we now have 750 employees, and
 24 my memory is not as good.

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30

1 Q So Dr. Abelson and Dr. Lu?
 2 A Yes.
 3 Q Were they the only ophthalmologists who
 4 came in say in September of 2002?
 5 A Yes.
 6 Q For how long have they been doing this
 7 would you say?
 8 A Quite a long time, well over ten years,
 9 maybe fifteen years. It might be all the
 10 way back to the beginning for Dr. Abelson.
 11 That would be my guess. But we have to go
 12 back to the personnel files to check.
 13 Q In 2002, Dr. Abelson was coming in once a
 14 week?
 15 A Yes.
 16 Q And was there one particular day he would
 17 come in?
 18 A I believe on Fridays, but don't hold me to
 19 that.
 20 Q Would he usually spend the entire day there
 21 when he came?
 22 A I believe a half day.
 23 When you depose Dr.
 24 Pietrantonio, he can give you much more

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1 accurate testimony about the eye clinic.
 2 Q Dr. Pietrantonio, what is his position?
 3 A He is the Chief Optometrist. He is the
 4 director of that program. He's been there
 5 from the beginning as well.
 6 Q Director of the eye clinic?
 7 A Yes.
 8 Q Was Dr. Pietrantonio present at the eye
 9 clinic on September 26, 2002?
 10 MR. ALBERTO: September 26,
 11 2002, was a Thursday.
 12 A All right, so it might have been his normal
 13 day. I don't know.
 14 Q What about Dr. Abelson, when would he come
 15 in?
 16 A He would examine patients with potential
 17 eye disease, surgical eye disease. He
 18 would do preoperative examinations for
 19 those that need cataract surgery and
 20 follow-up for patients who had surgery. He
 21 works closely with Dr. Pietrantonio. So
 22 they jointly manage these patients.
 23 Q He is an eye surgeon?
 24 A Yes.

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1 Q Where does he operate?
 2 A Mass. Eye & Ear and I'm not sure that is
 3 his only site of operation for doing
 4 surgery. He did operate at Boston Medical
 5 Center as well. He actually has offices in
 6 the North Shore. So there may be other
 7 places. I don't know.
 8 Q He has offices in Andover; is that right?
 9 A Yes.
 10 Q The eye clinic, is it referred to at the
 11 health center as the eye clinic?
 12 A Probably more often as the vision center.
 13 I think it's the vision center. But it's
 14 the standard nomenclature. It does not
 15 appear on any documents.
 16 Q Is the eye clinic or the vision center a
 17 separate legal entity as far as you know?
 18 A No. It's a department.
 19 Q A department of the East Boston
 20 Neighborhood Health Center?
 21 A That's right, a department.
 22 Q And the eye clinic, does the eye clinic
 23 have a separate budget or sub-budget within
 24 the budget for the East Boston Neighborhood

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1 Health Center?

2 A Yes and no. I mean, basically there's a
3 personnel budget for the eye clinic; but I
4 think in terms of facilities budget, it's
5 pretty much merged.

6 Q When you say personnel budget, does that
7 mean within the East Boston Neighborhood
8 Health Center there's a certain amount set
9 aside for personnel who work at the eye
10 clinic?

11 A Yes. There would be a roster with all of
12 their salaries and so forth.

13 Q As far as the money that is earmarked for
14 the people who work at the eye clinic, does
15 that money come from any particular source
16 or come from the overall budget of the East
17 Boston Neighborhood Health Center?

18 A It comes from the overall budget of the
19 East Boston Neighborhood Health Center.

20 Q The East Boston Neighborhood Health Center
21 receives money to operate its budget from
22 year-to-year from what sources?

23 A From many different sources. We are a
24 federally qualified community health

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1 A Public payers, Medicare and Medicaid and
2 the Free Healthcare Pool.

3 Q Roughly, how much would that be?

4 A I would say probably 35 percent from
5 Medicaid. I would guess a similar amount
6 from the Free Healthcare Pool. Medicare
7 would be smaller than that, and the rest
8 from private payers.

9 (Exhibit Number 1 marked for
10 identification)

11 Q I show you what has been marked as Exhibit
12 Number 1 to your deposition. Please take a
13 minute and look through that.

14 A All right.

15 Q Would you agree this document is entitled
16 United States of America Interrogatories In
17 Response To Request For Production Of
18 Documents?

19 A Yes.

20 Q Have you seen this document before?

21 A Yes.

22 Q And did you, in fact, sign this document?

23 A Yes, I did.

24 Q And on page 5, is that a copy of your

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1 center; what is called a 338 health center,
2 which applies to public law. That accounts
3 for maybe -- that's about
4 two-and-a-half-million dollars a year.

5 MR. ALBERTO: I think it's in
6 the answers to interrogatories as to the
7 funding.

8 A We also basically do get some money
9 directly from the city of Boston. We get
10 money from public and private payers,
11 Medicaid, Medicare, Blue Cross, other
12 insurers, various HMOs, Harvard, Tufts. We
13 get money through the Boston Medical
14 Center, from the state in what is called
15 the Free Healthcare Pool. So there are
16 many different sources of funding.

17 Q Do you know for the last fiscal year what
18 the total amount of money that the
19 healthcare center had to spend on its
20 budget was, in rough terms?

21 A I think it was about sixty-two-million
22 dollars, I believe.

23 Q The largest chunk of the sixty-two-million
24 dollars, where does that come from?

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1 signature?

2 A Yes, it is.

3 Q Before you signed it, did you read the
4 answers that were in the answers to
5 interrogatories?

6 A Yes, I did.

7 Q At the time you signed it, were those
8 answers true and accurate?

9 A I believe they were, yes.

10 Q Doctor, have you ever been deposed before?

11 A Yes.

12 Q How many times?

13 A Two.

14 Q When were those times, approximately?

15 A Five years ago, maybe three years ago.

16 Q On two separate occasions?

17 A Yes.

18 Q And what types of cases were those, if you
19 know?

20 A I'm trying to remember. I believe one was
21 when we were a third party in what I think
22 was a malpractice suit against another
23 provider. And I think the other was around
24 a personnel issue with disciplinary action

PAGE 41 SHEET 11

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1 Q Did he have that position in 2002?
 2 A Yes.
 3 Q How long has he had that position as far as
 4 you know?
 5 A A very long time, probably twenty years,
 6 maybe more.
 7 Q Who is his boss, if you know?
 8 A He would report more directly to John
 9 Cradock, who is the Chief Executive
 10 Officer, C-r-a-d-o-c-k.
 11 Q John Cradock is the Chief Executive
 12 Officer?
 13 A Yes. So he would be much more involved in
 14 issues of facilities and budgets and things
 15 like that. Where mine would be more in the
 16 area of medical care and standards and
 17 things like that.
 18 Q Do you report to Mr. Cradock?
 19 A It depends which organizational chart you
 20 look at. We both occupy the office of the
 21 president. It's sort of a shared
 22 position.
 23 But I think if you were to look
 24 on the federal organizational chart under

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1 the 338 application, I would report to him,
 2 yes.
 3 Under the structure of 338,
 4 there is a single CEO and that is a federal
 5 requirement.
 6 Q You referred to an organizational chart
 7 under 338. What is 338?
 8 A 338 is the federal law that provides for
 9 federally funded community health centers.
 10 Q There's an organizational chart submitted
 11 with the federal government?
 12 A Yes.
 13 Q And is that submitted every year, or when
 14 is that submitted?
 15 A It is submitted whenever the granting cycle
 16 is. So it's either every three or five
 17 years, depending if it's a three or five
 18 year grant. And then there are annual
 19 reports. I don't know if they update the
 20 chart on an annual basis or not.
 21 Q Is there another organizational chart
 22 you're aware of?
 23 A I think there's a de facto organizational
 24 chart that would -- I don't know the answer

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1 to that.
 2 Q Is that de facto organizational chart in
 3 writing, or is that just something
 4 everybody knows about?
 5 A It just may be something everybody knows
 6 about. It's the standard way we've
 7 operated over the years we have been
 8 partners.
 9 Q Starting with the de facto organizational
 10 chart, tell me how that reads from the top
 11 down?
 12 A There is the office of the president which
 13 has the CEO and CFO. We report to the
 14 Board of Directors, and then there's a
 15 series of directors who report to us and
 16 there's a Chief Operating Officer.
 17 There is a Chief Informational
 18 Officer who runs the computer side of
 19 things. There's a Chief Financial Officer
 20 and Director of Human Resources. There's a
 21 Facilities Director.
 22 And then sort of under me
 23 there's a series of medical directors for
 24 each of the departmental areas. So there's

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1 a Medical Director for Internal medicine,
 2 pediatrics, obstetrics and gynecology,
 3 mental health. There are administrative
 4 directors. There are probably maybe
 5 twenty-something departments and each of
 6 which has an administrative director.
 7 Q Is the vision center eye clinic at that
 8 level?
 9 A Our clinic falls under the specialties
 10 department. There is an Administrative
 11 Director for Specialties, Donna Crown,
 12 C-r-o-u-n, who reports to me.
 13 (Discussion off the record)
 14 MR. URSO: I want to make an
 15 objection on behalf of the East Boston
 16 Neighborhood Health Center, I was not
 17 advised that the depositions were switched
 18 around and that Dr. Taylor would be
 19 appearing today.
 20 Therefore, we would like to
 21 include a running objection as to anything
 22 Dr. Taylor testifies to regarding the
 23 premises of the building, 78 Paris Street.
 24 The objection will not apply to anything

PAGE 45 SHEET 12

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1 regarding the medical treatment received by
2 the plaintiff.
3 Q Doctor, we were talking about the
4 organizational chart?
5 A Yes.
6 Q And you were talking about the "de facto"
7 organizational chart, and then there was a
8 written organizational chart?
9 A I think both are written. One I think is
10 the one that gets submitted to the federal
11 government to comply with.
12 MR. ALBERTO: We will get a
13 copy of that?
14 A Yes.
15 Q Could you supply a copy of both charts?
16 A Yes.
17 MR. ALBERTO: Is there a de
18 facto chart?
19 A I will try to find one.
20 Q The official one is in the block over you?
21 A Yes.
22 Q Would you say that is the only difference?
23 A Yes.
24 Q And that person is who again?

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1 A John Cradock.
2 Q And his position?
3 A Chief Executive Officer.
4 Q Did they have that position in 2002?
5 A Yes.
6 Q How long has he held that position?
7 A I think twenty-five years, a little over
8 twenty-five years, maybe twenty-six years.
9 Q You were also testifying or you testified
10 that the eye clinic in the organizational
11 chart was under specialty care?
12 A Specialties, yes. We have a variety of
13 specialty services. We provide on-site
14 eye, dental, and then other specialists who
15 come in, oncology, rheumatology, surgery.
16 Q And you gave me the name of Donna Crown?
17 A She is the Administrative Director of the
18 Specialties Department of which the eye
19 clinic is a subdivision.
20 Q And under the eye clinic in the
21 organizational chart, who is named?
22 A John Pietrantonio would be the head of the
23 eye clinic.
24 Q And who would be under him, or is there any

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1 person on that chart?
2 A Then the optometrists. He actually
3 coordinates all the clinical care in the
4 department and he is the one that basically
5 deals primarily with the visiting
6 specialists.
7 Q Where is your office?
8 A My office is at 59 Meridian Street, which
9 actually opens to Paris Street immediately
10 across.
11 Q So it's in East Boston?
12 A Yes.
13 Q How long have you been at that location,
14 your own office?
15 A Fifteen years, I'm guessing. My office has
16 been in every building actually, on the
17 four corners, over the years.
18 Q Did your office used to be at 79 Paris
19 Street?
20 A Yes, at one time.
21 Q How long ago was that?
22 A It was for the first seven years.
23 79 Paris Street was our only
24 facility. So my office was in the

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1 basement, went to the third floor, and then
2 moved across the street to today's space.
3 It's moved around a lot over the years.
4 Q To your knowledge, does the eye clinic have
5 any written policies and procedures which
6 it operates under?
7 A Yes.
8 Q And --
9 A The specialties department have operating
10 policies and procedures, yes.
11 Q The specialties department in general has
12 policies and procedures, or do each one of
13 the specialties have policies and
14 procedures?
15 A I believe that the policies and procedures
16 are written for the specialties department
17 specifically.
18 Q Does the eye clinic have written policies
19 and procedures?
20 A Distinct from those? I'm not sure. I
21 don't know whether they are distinctly
22 separate from them or not. John could tell
23 you that.
24 Q The policies and procedures you have in

PAGE 85 SHEET 22

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1 CROSS EXAMINATION
 2 Q (by MR. CHRISTOPHER ALBERTO) Doctor,
 3 you said you started the clinic; you were
 4 one of the creators or founders?
 5 A I was actually working in the community on
 6 a hypertension project and was approached
 7 by the Board of Directors and asked if I
 8 would help start this.
 9 So for the first year, I worked
 10 in the evenings seeing patients in the
 11 evening while I still had my day job as a
 12 researcher. And then at some point, a year
 13 and a half later, I actually became the
 14 Medical Director with a paycheck.
 15 Q The paycheck you were receiving, was it
 16 considerably less than what you would get
 17 if you were in a so-called private
 18 practice?
 19 A Yes, I think that's fair to say.
 20 Q So your motivation to go into medicine was
 21 not one of enriching yourself?
 22 A That's correct.
 23 Q And you decided to work in the community in
 24 East Boston?

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1 the city, and it's geographically
 2 isolated.
 3 So it's fewer people with
 4 health insurance, fewer people with high
 5 paying jobs, more people who are sort of
 6 struggling to get by.
 7 Q Was there a time you provided medical
 8 services for people in the East Boston
 9 community for free?
 10 A Actually, for the first three years there
 11 was a federal law that prohibited billing
 12 patients. We actually got our funding
 13 before we were federally qualified. We got
 14 funding through Title 5, which literally
 15 prohibited any kind of patient billing.
 16 And then I think it was in
 17 1973, in the early Nixon administration, we
 18 were asked to become self-sufficient based
 19 on billing. So there was a sudden change
 20 in the mechanism. And that's been true
 21 through the years. The basis of funding
 22 has evolved and changed continuously.
 23 Q You personally, Doctor, did you volunteer
 24 your time to work for free?

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1 A Yes.
 2 Q Is there a particular reason you chose East
 3 Boston as a community you wanted to help
 4 people in?
 5 A It certainly has always been an
 6 under-served community. It's basically one
 7 of the poorer communities. It has
 8 additional problems of geographic
 9 separation from the rest of the city. It
 10 has always been an immigrant community.
 11 When I went there, it was an
 12 Italian community, over 60 percent, most
 13 did not speak English and viewed hospitals
 14 as terrifying places that you go to die.
 15 So they often did not get healthcare. So
 16 by actually coming into the community with
 17 translators for staff, people did get help
 18 there.
 19 Q And East Boston is a lower income
 20 neighborhood or population?
 21 A Yes, it's always been an immigrant
 22 community. It's always been on the lower
 23 economic scale. As far as the educational
 24 level, it's often been about the lowest in

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1 A In the first year, yes.
 2 Q You were not paid for the patients you were
 3 serving?
 4 A No, no. I mean, but that was the
 5 sixties. . .
 6 The thing we did in terms of
 7 getting equipment from the City Hospital or
 8 actually putting lab results into their
 9 lab, doing all sorts of things which today
 10 would not be allowed -- absolutely a
 11 violation of all sorts of regulations
 12 but. . .
 13 Q If somebody comes to your clinic today and
 14 they don't have the money to pay, do you
 15 see them?
 16 A Absolutely. It's basically the mission,
 17 the statement of the health clinic is to
 18 attain easily accessible high quality
 19 healthcare whether people have the ability
 20 to pay or language obstacles.
 21 MR. ALBERTO: I just wanted to
 22 bring out on the record what an outstanding
 23 deponent we have here.
 24 MR. URSO: I have no questions.